

**REMARKS:**

The claims in the application are 1-9 and Claims 21-39 added by the present Amendment.

Favorable reconsideration of the application as amended is respectfully requested.

The claims have been amended to eliminate the rejection under 35 U.S.C. §112, second paragraph raised in paragraph 4 of the Office Action. In this regard, Claims 1-9 and 21-25 are explicitly directed to just the lifting apparatus itself, while Claims 26-39 are directed to the combination of the two-leaf folding flap and lifting apparatus. Claims 21-25 introduced herein find explicit support in Figs. 6-12 of the present application and accompanying description, with Claims 26-39 finding concomitant support throughout the present application, drawings, and originally-filed set of claims.

It is respectfully pointed out Claim 2 also reads upon the elected embodiment and should be examined herein. Presently, Claims 1-5, 9, 21-30 and 34-39 all read upon the elected embodiment of Figs. 6-12. The withdrawn claims should also be allowable upon indication of an allowable generic claim.

Box 10) on the Office Action Summary page has been checked, indicating the drawings have been objected to by the Examiner. However, no drawings objection has been raised in the body of the Office Action. It is respectfully requested this ambiguity be clarified in the next Official communication from the Patent and Trademark Office.

Accordingly, the only outstanding issue is the art rejection of the claims. More particularly, Claims 1, 3, 5 and 9 have been rejected under 35 U.S.C. 103 as obvious over DE 94 03 699 in view of U.S. Patent No. 5,938,306 to Lambright et al in paragraph 7 of the Office Action, with Claim 4 rejected further in view of U.S. patent No. 5,882,099 to Salice in paragraph 8 of the Office Action. However, it is respectfully submitted the claimed invention recites patentable subject matter over the applied art for the following reasons (reference will be made to preferred embodiments of the present invention illustrated in the drawings of the present application).

The present invention provides an improved lifting apparatus for a two-leaf folding flap 3,5 about horizontal axles 2, 4 in space-saving manner with simple construction and ensuring guidance of the lower leaf 5 to avoid contacting parts of a cupboard such as a wall 1 during opening and closing. This is explicitly provided by the claimed lifting apparatus which includes, among other features, a two-armed lever 13 having longer 15 and shorter 16 arms pivotally mounted about a horizontal pivot axle 12 and guided in a longitudinally-displaceable manner on the horizontal pivot axle 12, with the shorter arm 16 guided, by means of a slide block or roller 17, in a cam guide 9 fixed to body 8 upon which the horizontal pivot axle 12 is positioned. A compression spring 20 also has one end pivotally connected to the body 8 and opposite end pivotally connected to the lever 13. The longer lever arm 15 is linked to the lower leaf 5 of the two-leaf folding flap 3,5.

The features of the presently claimed invention together with the accompanying advantages attained thereby are neither taught nor suggested by the applied art for the following reasons.

DE 94 03 699 fails to disclose the claimed structure where the longer lever arm 15 is guided in a longitudinally-displaceable manner about pivot axle 12 and the shorter lever arm is guided in a cam guide 9. Figs. 3a and 3b of DE 94 03 699 just show a single arm 8 mounted for only pivotal movement about both axles 14 and 15 situated in respective guides 25 and 17. More specifically, the lever arm 8 of DE 94 03 699 is pivotal around the bolt 14 which is slidable in the guiding slit 16, whereby the movement of the lever 8 is guided by the axle 15 situated in the guide 17. Only the bolt 14 is guided in the guide 16 whereas the axle 15 could be situated in different locations in the area of the guide 17.

Furthermore, both DE 94 03 699 and Lambright et al relate to furniture parts which pivot about vertical axes. Even if these furniture parts could be considered flaps, nevertheless the overall structures are quite different from the claimed invention. In DE 94 03 699, both pivot axles 14, 15 are arranged at the leaf of the door, while in Lambright et al, the door leaf parts 60, 64 are aligned perpendicular to one another in closed state. Even assuming, *arguendo*, DE 94 03 699 discloses a two-armed lever, then it would be the shorter lever arm, and not the longer lever arm, which would be pivotally connected to the lower leaf. However, the bore for the bolt 15, could not, by any means, be considered an elongate hole.

Salice adds nothing to the teachings of any other reference which would render obvious the invention as recited in any claim. The remaining art of record has not been applied against the claims and will not be commented upon further at this time.

Accordingly, in view of the forgoing amendment and accompanying remarks, it is respectfully submitted all claims pending herein are in condition for allowance. Should the Examiner have any questions, then it is respectfully requested the undersigned attorney be contacted at the earliest convenience to discuss the present application. A petition for an automatic one month extension of time for response under 37 C.F.R. §1.136(a) is enclosed in triplicate together with the requisite petition fee and fee for the additional claims introduced herein.

Early favorable action is earnestly solicited.

Respectfully submitted,



George M. Kaplan, Esq.  
Reg. No. 28,375  
Attorney for Applicant(s)

DILWORTH & BARRESE  
333 Earle Ovington Blvd.  
Uniondale, NY 11553  
(516) 228-8484  
(516) 228-8516-Facsimile